

April 7, 2010

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Rene Berger
140 Summit Street
Belchertown, MA 01007

Re: Tiverton Zoning Board Relief; Map 3-12, Block/Plat 113, Card 41A-015

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Dear Mr. Berger:

The following is the decision on your Petition heard by the Zoning Board of Review (the "Board") on April 7, 2010 requesting a variance from Article V, Section 2.b., Article VIII Section 3.d(1) and Article XIV, Section 4.a. (the "Relief Sought") of the Tiverton Zoning Ordinance (the "Zoning Ordinance") to demolish and replace an existing legal non-conforming single family dwelling with less than required setback from Stafford Pond and having more than one housing structure on a single lot (the "Use") on property located at 238 Pelletier Lane, Tiverton, Rhode Island, at Map 3-12, Block/Plat 113, Card/Lot 41A-015, (the "Premises") in an R60 zoning district.

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After the testimony was completed at the public hearing for which due notice was given and a record kept, and after having viewed the Premises and the surrounding area, the Board, taking into consideration its knowledge and expertise and all of the testimony and evidence entered into the record at the public hearing, makes the following findings:

1. That the Premises is a land condominium containing approximately 4,253 square feet of land area, more or less, zoned R60 that is part of a thirty-five dwelling unit land condominium community referred to as STAPOCO.
2. That the Premises is a small rectangular shaped lot with an existing "Quonset Hut" style single family dwelling with an approximate 850 square foot footprint. The existing dwelling had originally discharged waste to a cesspool and obtained potable water from Stafford Pond.
3. The petitioner testified that a new advanced treatment septic system had been installed that is shared by the Premises and another dwelling unit within the STAPOCO community. The new dwelling would be served by that septic system and a new water supply would need to be installed and/or obtained. The petitioner testified that these actions would significantly reduce environmental impacts on Stafford Pond. The petitioner also testified that the proposed improvements would be consistent with existing conditions in the area and keep in character with the surrounding area's development. The proposal requires the Relief Sought to be approved by the Board.

4. The petitioner stated that the proposal would not negatively impact any nearby property owners as the proposed improvements were in keeping with the character of the surrounding area. The petitioner also testified that the design was reasonable and appropriate for the site and area and that the Relief Sought was the least relief necessary.
5. A registered land surveyor was presented and documentary evidence from a registered professional engineer to show the new septic system location and the proposed footprint of the replacement dwelling. The new dwelling would have a smaller footprint than the existing dwelling but would have more floor area by having two floors of living area.
6. No objections were raised to the proposal at the public hearing.
7. The Board concurred with the factual statements and opinions of the petitioner, whose information, analysis and conclusions were found credible and are made a part of the record. No objections were presented at the public hearing.

Based on the foregoing and after deliberations on the application, the Board voted unanimously to grant the application for the variance, as follows:

- a. Special conditions and circumstances exist which are special and peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same zoning district, and are not due to a physical or economic disability of the petitioner.
- b. Issuance of the requested relief will not be contrary to the public interest, and that, owing to special or peculiar site or structural conditions, literal enforcement of the provisions of this ordinance would result in an unnecessary hardship on the petitioner.
- c. The unnecessary hardship, which the petitioner seeks to avoid, has not been imposed by any prior action of the petitioner and is not based purely for monetary gain or loss.
- d. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.
- e. Relief from the provisions of this ordinance is the least relief necessary to remove the unnecessary hardship.
- f. That nonconforming use of neighboring lands, structures or buildings in the same district, and permitted use of lands, structures or buildings in an adjacent district did not form the grounds for the application of this variance request.
- g. That the hardship that will be suffered by the petitioners of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience.

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| As to the use variance:

- h. Without the issuance of this use variance, the land or structure cannot yield any beneficial use.

This petition is granted by the Board with the following stipulations and conditions:

1. That this decision must be recorded in the Land Evidence Records in the Town Clerk's Office before a building permit/certificate of occupancy is issued. (Please note that the appeal period (20 days) begins when said decision is recorded and posted with the Town Clerk's Office).
2. That the relief is limited to the plans and representations made by the petitioner to the Board and that any changes to the approved plan shall not be made without approval of the Zoning Board of Review.
3. The petitioner volunteered to limit the occupancy of the new dwelling to no more than four (4) occupants and this restriction is made a condition of approval.
4. No increase in impervious area than that which was presented on the plan submitted with this application can be made on the Premises.
5. This approval shall expire one year from the date of granting of such by the board unless the applicant exercises the permission granted or receives a building permit to do so and commences construction and diligently prosecutes the construction until completed. The board may, upon application thereof, for cause shown and without a public hearing, grant an extension, provided that not more than one such extension for a period of six months be granted. (At present, this approval is tolled pursuant to RI General Laws until June 30, 2011.)

| Present this letter to the Building Official when applying for the necessary permits.

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| Very truly yours,

David Collins, Chairman
Tiverton Zoning Board of Review